

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

ALBERT MIKHAYLOVICH BARATOV,	:	Civ. Action No. 19-6715(RMB)
	:	
Petitioner	:	
v.	:	ORDER
	:	
WARDEN, FCI FORT DIX, <i>et al.</i> ,	:	
	:	
Respondents	:	

BUMB, District Judge

This matter comes before the Court upon Petitioner's petition for writ of habeas corpus under 28 U.S.C. § 2241, challenging the Bureau of Prison's failure to consider him for Residential Reentry Center ("RRC") placement for the last twelve months of his sentence under 18 U.S.C. § 3624(c) because he is subject to an immigration detainer. (Pet., ECF No. 1.)

Petitioner originally filed this claim in a non-habeas civil action, Civil No. 17-3775(RMB) (D.N.J.) The Court found that Petitioner's RRC placement claims were not ripe. (Civil Action No. 17-3775(RMB), Opinion and Order, ECF Nos. 11, 12.) After Plaintiff was resentenced to a shorter term of imprisonment, the Court vacated its order dismissing for lack of jurisdiction and directed the Clerk of Court to file Petitioner's complaint in a new action for adjudication of Count One under 28 U.S.C. § 2241. (Civil Action

19-6715(RMB), Opinion and Order, ECF Nos., ECF Nos. 1-1 and 1-2.) The Court instructed the Clerk to add the Warden of FCI Fort Dix as a respondent to this § 2241 action. (Id.) The Court addressed Petitioner's non-habeas claims in Civil Action No. 17-3775(RMB).

The Court now directs Respondents to answer Petitioner's claim, under 28 U.S.C. § 2241, that the BOP policy of delaying confirmation of ICE detainers until three months prior to the inmate's release date denies his statutory right to individual consideration for RRC placement for up to the final twelve months of his prison sentence under 18 U.S.C. §§ 3624(c), 3621(b). (Pet., ECF No. 1 at ¶¶107-08.)

IT IS, therefore, on this **27th** day of **February 2019**,

ORDERED that the Clerk shall serve a copy of the Petition (ECF No. 1) and this Order upon Respondents by regular mail, with all costs of service advanced by the United States; and it is further

ORDERED that the Clerk shall forward a copy of the Petition (ECF No. 1) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that within thirty (30) days of the date of the entry of this Order, Respondents shall file and serve an Answer which responds to the ground in the Petition described above; and it is further

ORDERED that Respondents shall file and serve with the Answer certified copies of all documents necessary to resolve Petitioner's claim and affirmative defenses; and it is further

ORDERED that within forty-five (45) days of receipt of the Answer, Petitioner may file a Reply to the Answer; and it is further

ORDERED that the Clerk shall serve a copy of this Order on Petitioner by regular U.S. mail.

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge